

Notice of Allowability

Application No.

10/629,511

Examiner

Shumaya B. Ali

Applicant(s)

JEPPESEN, JOHN C.

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/18/07.
2. ☒ The allowed claim(s) is/are 18-21,23,25,28,29,31-36,39 and 40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date see next pages.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 7/18/07.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Sh 7/19/2007

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/21/07 has been entered.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ralph Chabot on 7/18/07.

The application has been amended as follows:

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: replacement sheet for figures 1-3 will be submitted without “#” signs used to designate structures in the figures and the three figures in figure 2 will be labeled as figures 2a, 2b, and 2c. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

Make following changes in the claims:

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In claim 40, line 12, after “pillow coupled thereto;” **insert** --wherein the operable connection of the retention platform to the dual arch oral appliance comprises an elongated anterior slide extending away from said dual arch oral appliance, and where said retention platform is slidably mounted to said slide;--.

Cancel claim 41.

Reasons for Allowance

Claims 18-21,23,25,28,29,31-36,39, and 40 are allowable over the prior art of record.

The following is an examiner's statement of reasons for allowance: **as to claim 18**, the prior art of record does not teach nor render the obvious the overall claimed combination of the method of applying positive airway pressure to nasal passages of a patient for the purpose of treating Obstructive Sleep Apnea Syndrome without the use of a hook, chin stabilizer, or chin strap comprising the steps of mounting a PAP tubing Retention platform to said slide for slideable movement along said slide, said PAP tubing operatively connected to said PAP tubing retention platform; **as to claim 33**, the prior art of record does not teach a method for treating a patient with Obstructive Sleep Apnea Syndrome comprising the steps of providing a retention platform operably but not integrally connected to said oral appliance for positioning anteriorially of the patient's mouth, and a pair of air supply tubes retained by said retention platform, and **as to claim 40**, the prior art of record does not teach a method for treatment a patient with Obstructive Sleep Apnea Syndrome while comprising the steps of providing a retention platform operably connected to said dual arch oral appliance and wherein the operable connection of the retention platform to the dual arch oral appliance comprises an elongated anterior slide extending

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away from said dual arch oral appliance, and where said retention platform is slidably mounted to said slide. Therefore, the subject matter in claims 18, 33, and 40 is considered novel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hawkins (5,018,533) and Thornton (5,983,892) pertain to appliances for preventing sleep apnea.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-W-F 8:30am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Shumaya B. Ali
Examiner
Art Unit 3771


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
7/20/07